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DETENTION AND DETERRENCE IN TEXAS: CENTRAL AMERICANS IN INS PROCEEDINGS

[In April, Refugee Reports staff writers Bill Frelick and Hiram Ruiz traveled to south Texas to get a first-hand look at the conditions of detention and access to legal counsel for Central Americans in various stages of INS proceedings and to visit facilities offering shelter to those who are not in detention. This article is based on that visit.]

Since February 20, when a judge lifted his order that had halted a new U.S. policy to detain Central American asylum seekers crossing into south Texas, the Immigration and Naturalization Service (INS) has detained thousands of Central Americans and deportations are proceeding at a brisk pace.

The deterrent effects of the new policy appear to be successful--detentions have now dropped to about 50 to 60 per day, as opposed to 200 to 250 per day in March, and aliens stepping forward to apply for asylum voluntarily have dropped from 500 a day in January to less than 10 per day. But critics of the policy charge that many of the Central Americans in the system remain unaware of their legal rights--particularly the right to apply for and pursue claims for political asylum. They say that large numbers are being deported without having had their potential for refugee status thoroughly explored.

On May 1, U.S. District Judge David Kenyon issued a preliminary injunction against the INS requiring that Salvadorans be advised of their rights before being deported.

In taking this action, Kenyon determined that the INS had violated his previous order from the Orantes-Hernandez class-action suit requiring that Salvadorans be informed of their rights to be represented by an attorney and to apply for political asylum (see Refugee Reports, Vol. IX, No. 5). The suit had been brought on behalf of all Salvadorans eligible to apply for asylum who "have or will be taken into custody" by the INS.

Judge Kenyon found that various Salvadorans represented in the class-action suit "indicated that they have not had access to telephones to contact an attorney, that they have not seen the videotape

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prepared by defendants [the INS], and they they were neither given nor read the Orantes advisal."

Kenyon further found that, "as an indication that detainees are not being informed of their rights in any meaningful manner, the Court has learned that, out of a group of 67 Salvadorans deported from Port Isabel Service Processing Center on April 20, 1989, none were represented by counsel in their deportation hearings. The Court finds it difficult to believe that each of these individuals learned of and knowingly and effectively waived his or her right to counsel."

Judge Kenyon's preliminary injunction requires the INS to arrange for group legal rights presentations to be given immediately by attorneys and paralegals to all Salvadorans detained at the Port Isabel Service Processing Center; restrains the INS from limiting the content of the presentations informing detainees of their rights; and prohibits the INS from deporting or moving ahead with deportation proceedings against Salvadorans "until they have been given the opportunity to receive legal rights information through such orientations."

Linton Joaquin, director of the Central American Refugee Center (CARECEN), one of the attorneys representing the plaintiffs in Orantes-Hernandez, said that he doubted that the judge's injunction has actually halted deportations, but that it has allowed private attorneys to make group know-your-rights presentations. "This is a modest remedy," he said, "to at least provide access to attorneys." More generally, Joaquin said, "it shows a history of bad faith on the part of the INS. They violated the preliminary injunction [in 1982], and they violated the permanent injunction [in 1988]." Each time, Joaquin said, attorneys for the plaintiffs have had to go to court to seek relief.

Refugee Reports Visits Texas Detention Centers, Observes Deportation Hearings Refugee Reports staff surveyed a cross-section of locations that house Central Americans. In each place, we interviewed both those responsible for running the facilities as well as Central Americans in them. Sites included:

- the large detention center at Los Fresnos, called the "Port Isabel Service Processing Center" by the INS, but known to the Central Americans as "El Corralon"--the big corral;
- the Webb County Detention Center, which holds some of the overflow from Port Isabel, as well as aliens apprehended to the west of the Brownsville-Harlingen area;
- the Correctional Corporation of America (CCA) facility, which operates under contract to the INS in Laredo;
- the Red Cross shelter in Brownsville, which holds family groups in INS proceedings;
- Casa Oscar Romero, outside Brownsville, a Catholic shelter for Central Americans, most of whom appear to be undocumented and not yet apprehended by the INS; and
- the Casa Juan Diego church shelter in Matamoros, Mexico, where many Central Americans have stopped before crossing into the United States.

Refugee Reports accompanied Border Patrol agents on night operations in the Brownsville sector and interviewed Border Patrol and INS personnel in Brownsville, Harlingen, and Laredo. Deportation hearings before immigration judges with the Executive Office of Immigration Review (EOIR) were observed in Harlingen and Los Fresnos.

On paper, the asylum adjudication system set up by the Harlingen INS district office appears to be both quick and thorough. According to Alfonso De Leon, assistant director for examinations, at least four different people look at the applications--the initial examiner, who holds hearings with the applicant averaging 45 minutes per interview; the immediate supervisor; the Department of State person who gives an advisory opinion; another INS examiner, who reviews the application together with the advisory opinion; and a final review by a different supervisor.

With the additional INS personnel who have been detailed to Harlingen from other parts of the country, this whole process takes place in a single day. From a high of 45 examiners, who arrived at the start of the accelerated hearings, the number had been reduced to 35 examiners and 30 clerks by the time of the visit. At the beginning of April, the State Department contingent

F. is a Salvadoran woman detained at the Port Isabel Service Processing Center. At the time of Refugee Reports' visit, F. had been at the detention center for more than five weeks, but she had not seen a lawyer. F. received a list of lawyers, but had heard rumors that getting a lawyer would only prolong her detention. As she spoke to Refugee Reports, more than a dozen other women crowded around her. Although some of them thought that it was important to get legal help, none of them had seen a lawyer either. They gave various reasons: "Too many people;" "Too few phones;" "Lawyers are very expensive." Like F., almost none of the women had any understanding of the U.S. asylum process.

Photo credit: USCR/Hiram A. Ruiz

returned to Washington, D.C., but has continued the same day turn-around through use of telefax machines.

"I think every avenue for asylum is being explored," said De Leon. "We knew we would be under a magnifying glass, and that we could be [legally] challenged." He added that the interviews had revealed to his satisfaction that the majority had come for economic reasons. "Some have very sad stories, but it does not amount to persecution," he said.

Asylum Applications Drop Although the system, and the personnel to make it function, is in place, in reality, it virtually isn't operating.

Almost no one is voluntarily applying for asylum.

On April 5, the day before the Refugee Reports visit, there were only two asylum applicants, and only 10 in the previous week and a half.

Between February 21, when the program started, and April 5, a total of 617 Central Americans had applied voluntarily for asylum. Of that number, 529 had been denied and issued Orders to Show Cause (OSCs), placing them into deportation proceedings; 30 had been issued intent-to-deny letters; and 58 had been granted asylum.

Affirmative applications are now examined on the grounds of the remote Port Isabel Service Processing Center. Any person wanting to apply for asylum must now find his or her way to this out-of-the-way location, 20 to 25 miles from Harlingen. Even more daunting is that the person going to apply for asylum must present himself at a compound that, to all appearances, is a prison. Although the INS adjudications office--consisting of a trailer, a tent, and a temporary-looking building--is just outside the actual prison fences, it is clearly on the same grounds. The first thing one sees when approaching the facility is two parallel chain-link fences topped by barbed wire, and patrolled by guards circling the periphery on motorcycles.

During the Refugee Reports visit, none of the INS examiners was engaged in asylum adjudications. We were told that INS was finding other paperwork projects for them. A large tent ready to accommodate the affirmative applicants stood nearby, almost empty.

A Mass Deportation Hearing The pace is much different just yards away, where immigration judges from the Executive Office of Immigration Review (EOIR) have their offices, and conduct deportation hearings of

twenty or more Central Americans at a time. Immigration judges conduct deportation proceedings, and can consider asylum requests in the course of those hearings. (See chart, p. 5, which contrasts asylum approval rates before immigration judges and INS district directors.)

Refugee Reports observed a group of 22 Central Americans--Hondurans, Salvadorans, and Guatemalans, but no Nicaraguans--in their first and, as it turned out, only hearing prior to deportation.

Crammed into a small cinder-block room, the detainees in their bright orange prison uniforms watched as the judge, in black robes, leafed through files and spoke into a tape recorder. None of the detainees was represented by legal counsel. The judge asked, "If it is necessary for me to order you deported, to which country would you wish to be sent?" Each person stood as his name was called and named his country. The judge asked each, "Is there any reason why you cannot be returned to...," and then he again sorted through files trying to match the name of the country with the name of the individual. Each answered, "No."

After explaining the option of voluntary departure, the judge asked, "Is the reason you do not apply because you do not have enough money to return home?" Each person answered, "Yes".

The judge then ordered them all deported. He told them that they had the right to appeal to a higher court if they thought his decision was unjust. "Do you all waive your right to appeal?" he asked. One man said, "I don't understand." The judge repeated that "you have the right to appeal to a higher court." The man fell silent as the group in unison waived their right to appeal.

Afterwards, the judge told Refugee Reports that this was the only hearing for these aliens. He said that he had not advised them of their right to apply for political asylum because each had named his home country as his preferred country of deportation, proving that none of them had a fear of persecution.

The immigration judge said that the Central Americans were sophisticated and well aware of their rights. He said, "These people know more about immigration law than you or I ever will."

A Refugee Reports reporter responded by asking, "Would a sophisticated person waive his right to legal counsel and his right to appeal?"

At that point, the judge rushed back into the courtroom, brought back the detainees, and reconvened the hearing. He said to the detainees, "These men say you are ignorant. Are you ignorant?" The group answered, "No." One man did say, "Well, there are some things we are ignorant about." The judge ignored him.

The judge called several of the people by name and asked each if he or she feared persecution based on each of the five enumerated grounds from the Refugee Act. Each answered "No" as the judge ticked off "race", "religion", "nationality", "membership in a particular social group", "political opinion". He asked why no one had requested asylum. One man said it was because "only Nicaraguans are given asylum." The judge did not respond to him either. After again telling the detainees that the observers had called them ignorant, he refused to allow one of the reporters to speak. He closed the hearing, looked over, and said, "I hope you're satisfied."

Conditions, Legal Access More Open for Central Americans in Red Cross Shelter

Hearings that Refugee Reports observed in downtown Harlingen contrasted dramatically with those in Los Fresnos. The Harlingen hearings, involving family groups from the Red Cross shelter in Brownsville, were individualized, not rushed, and efforts were clearly made to ask open-ended questions about fears of persecution.

For example, a Nicaraguan woman and her 5-year-old son came before one of the judges in deportation proceedings. He asked, "Are you afraid?" She answered, "Yes, I am afraid for my young son." "Why for your child?" he asked. "Because they pursue little boys, take them in the military. They say they will take him by the age of 10."

Even though he said that the articulated fear appeared to be at least five years off, the judge said to the woman, "If you apply for asylum, I will assist you in every way." He directed the court clerk to give her an I-589 asylum application form and gave her a continuance of two weeks to fill it out and seek legal counsel.

Although none of the Central Americans this reporter observed was represented by

COMPARISON OF ASYLUM APPROVAL RATES IN CASES BEFORE EOIR IMMIGRATION JUDGES AND INS DISTRICT DIRECTORS BY SELECTED NATIONALITIES, FY 1988

COUNTRY	DISTRICT DIRECTORS (INS) CASES GRANTED	CASES DENIED	APPROVAL RATE FOR CASES DECIDED INS	EOIR	IMMIGRATION JUDGES (EOIR) CASES GRANTED	CASES DENIED
TOTAL	5,531	8,582	39.1%	22.6%	1,647	5,626
Afghanistan	36	55	39.5%	72.7%	80	30
Bangladesh	1	5	16.6%	20.0%	7	28
Chile	6	13	31.5%	25.0%	3	12
Cuba	30	64	31.9%	13.9%	90	557
Czechoslovakia	13	16	44.8%	57.0%	4	3
El Salvador	110	3,822	2.7%	12.0%	335	2,451
Ethiopia	441	131	77.0%	65.7%	48	25
Guatemala	24	447	5.0%	14.5%	59	349
Haiti	6	13	31.5%	3.5%	4	111
Honduras	10	125	7.4%	6.9%	7	94
Hungary	24	59	28.9%	41.2%	7	10
India	3	17	15.0%	6.5%	5	72
Iran	764	254	75.0%	60.9%	224	144
Iraq	18	14	56.2%	33.3%	6	12
Lebanon	56	97	36.6%	30.0%	24	56
Liberia	3	17	15.0%	33.3%	7	14
Libya	62	23	72.9%	63.0%	17	10
Mexico	0	60	00.0%	14.3%	3	18
Nicaragua	2,786	2,455	53.1%	37.4%	508	850
Philippines	4	36	10.0%	13.2%	5	33
Poland	433	373	53.7%	20.5%	41	159
Romania	345	71	82.9%	59.3%	16	11
South Africa	13	9	59.0%	66.6%	6	3
Sri Lanka	34	43	44.2%	29.3%	17	41
Syria	25	13	65.7%	38.5%	5	8
Uganda	15	14	51.7%	50.0%	2	2
Vietnam	8	2	80.0%	64.3%	9	5
Yugoslavia	6	59	9.2%	9.9%	14	127

Source: Immigration and Naturalization Service (INS)/U.S. Department of Justice and Executive Office of Immigration Review (EOIR)/U.S. Department of Justice.

Note: For the first time, the Executive Office of Immigration Review has made available asylum statistics under the 243-H INA statute. Data, however, are still only available for those offices with computer capability. We compare the approval rates in proceedings before immigration judges with the approval rates of those applying for asylum before INS district directors. Those denied by an INS district director have the option of raising their asylum claim again in deportation proceedings before an immigration judge.

legal counsel, the several judges operating there all attempted to communicate fully and clearly with them about their rights and options. None of these aliens named their home country as the country to which they would be deported; none waived any of their rights.

The single factor that determines whether a person is incarcerated at Port Isabel or taken to the Red Cross Shelter is whether or not the person is traveling with his or her children. Single people, or spouses without children, are detained at Port Isabel.

The Red Cross shelter has a relaxed, even a cheerful atmosphere. People wear street clothes, some of which is donated by church groups. Children play. Red Cross volunteers from around the country lend an atmosphere of welcome and camaraderie.

Located in a picturesque part of town, the people are free to wander about Brownsville during the day. Although the accommodations are simple, and have a temporary feel, no one was complaining.

Prisons Versus Shelters The contrast with Port Isabel was striking. One is a prison; the other a shelter. Also striking was the critical difference that placement in one or the other place had on legal access and, ultimately, on deportation. While INS staff at Port Isabel said that up to 120 people per day were being deported there, the Red Cross staff in Brownsville said that they were not aware of a single person from their shelter having been deported. A Justice Department official with the Community Relations Service in Brownsville confirmed that no one has been deported from the Red Cross shelter.

A trailer with private attorneys and paralegals offering free legal aid sits on the grounds of the Red Cross shelter. At Port Isabel it is a struggle for the detainees to locate legal counsel, and even for attorneys and paralegals to see the clients who have managed to contact them.

The staff of Proyecto Libertad told Refugee Reports that they frequently travel the long distance to Port Isabel, present a list of 10 names to the authorities, and wait for hours. Sometimes, a few people are located; sometimes, none.

Refugee Reports had the opportunity to observe the distance between attorneys and their clients literally from both sides of the fence. We saw the attorneys' waiting room and watched as a paralegal wrote down a list of names of detainees who had contacted her. Posted on the wall was a notice telling lawyers and paralegals that 24 hours notice would be needed to locate detainees. On the other side, we saw a long line of women detainees who had approached a guard on the inside looking for their names on his list. All of the women in the line returned to their barracks; the guard said that none of their names had appeared on any of the lists presented by the paralegals on the other side.

"I Don't Make War on Children" The director of the Port Isabel facility, Cecilio Ruiz, said, "We have done all we can to accommodate the attorneys." He said that when attorneys or paralegals come, names are announced on the loudspeaker and "runners" are sent to track down the clients. As Refugee Reports toured the facility, however, various announcements were made on the loudspeaker--almost all of them unintelligible.

Ruiz voiced a degree of hostility towards lawyers, saying, "I will protect [the detainees] against attorneys who want to take their money and give them wrong information."

He was also critical of Proyecto Libertad--the only organization in the area that gives free legal assistance to aliens in INS proceedings and which has been involved in litigation against INS practices--saying they were just interested in "getting their own way."

Of the detainees, Ruiz said, "They are all undocumented aliens. They all violated the law. They entered the U.S. illegally, period." He said, "My experience has been, in the files I have read, they are coming here for economic reasons."

Ruiz added that "they say they're going to get killed, but that's a lie. A large number are reapprehended [in the United States] after they were returned [to their home countries]."

The prison atmosphere at Port Isabel was underscored by some of Ruiz's other comments. For example, in distinguishing the treatment of family groups at the Brownsville Red Cross shelter from the detention of adults at Port Isabel, Ruiz said, "I don't make war on children. I don't want

Outside the legal center on the grounds of the Red Cross shelter in Brownsville, paralegal worker Barbara Ferry answers questions from a group of Central Americans. Anyone staying at the shelter is allowed to go to the legal center to seek legal help or advice.

The impact of the legal advice available at the Red Cross shelter was evident at the immigration hearings that Refugee Reports observed in Harlingen. Red Cross shelter residents who appeared before the immigration judges at Harlingen seemed informed about the proceedings and able to respond appropriately to questions from the bench.

Photo credit: USCR/Hiram A. Ruiz

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children detained here. And I don't like to detain women."

But Port Isabel does detain women. Ruiz mentioned that "some of the women are on the edge." Couples without children at Port Isabel have complained that it is difficult for spouses to see each other. Refugee Reports toured the women's barracks. Although many chose to stay on their bunks, sleeping or talking in small groups, others were involved in a variety of activities. We watched volleyball games and aerobics exercises, in which the detainees were laughing and clearly enjoying themselves. At the same time, a line of women could be seen trying to use the single telephone in the noisy and crowded recreation room.

The Port Isabel authorities said that efforts are being made to install additional telephones--part of the requirement of the Orantes injunction--but at the time of our visit, long lines were seen at every telephone accessible to the detainees. Other telephones that guards indicated were for detainee use appeared to be in areas inaccessible to them.

The Isolation of Webb County Detention Center If legal access is difficult for Central American detainees in Port Isabel, it is well nigh impossible for detainees in the Webb County Detention Shelter. Anne Wallace, a local paralegal, told Refugee Reports that the few attorneys in the area willing to help couldn't possibly cope with the demand.

Located in a remote area outside Laredo, Webb County, like Port Isabel, has the look and feel of a prison. Surrounded by a barbed wire fence and guard towers, the detainees were all locked in their barracks on the Saturday of the Refugee Reports visit.

In fact, the detainees are not given time in the recreation yard from noon on Friday until Monday morning. They are normally given one hour per day of recreation time, five days a week, according to one of

the guards. The detainees were further locked behind bars within the barracks, with television as their only visible source of recreation. The single telephone in the barracks was in the center aisle, from which the detainees are locked away. As we walked down that center aisle, detainees crowded against the bars on all sides pleading to us for help. A chant of "Pasta, Pasta" arose. One of the detainees told us that it had been 25 days since they had had any toothpaste. That detainee, a Salvadoran who is supposedly protected by the Orantes injunction, told us that he had not had access to paper or pencils for the duration of his detention. He also said that there is little time for calls and that "the police cut off the calls."

He also said that there are long delays before hearings before immigration judges. He said that many have been waiting for so long that they want to be deported. He estimated that about 40 people in his barracks wanted to be deported.

We were told that no immigration judges are posted permanently in the Laredo area, but that two judges come from San Antonio twice a month for about three days.

We asked the Salvadoran whether he had been notified of his right to apply for political asylum. He said, "They only asked me if I came with a smuggler, pressure to tell the truth about the smuggler."

He told Refugee Reports, "When they gave the papers, they said, 'Sign here, sign here, sign here. A uniformed person asked how many kids I have, about my wife, my work, birthdate, school, religion. He did not ask me why I left. The only thing he explained was the list of attorneys."

Under the Orantes injunction, the INS is required to provide a list of free and low-cost legal services. We were told by detainees and by local volunteers and service providers that the problem everywhere, but especially in Webb County, is that very few of the organizations listed actually help aliens in deportation proceedings.

The Salvadoran detainee said that he had been forced into the civil guard in El Salvador, but that "a few days later, they told me to disappear." We asked who "they" were. He said he had received an anonymous note telling him not to do the service. This was in October 1988. He fled shortly afterwards. He also said that his daughter had been kidnapped and held for ransom, but he wasn't sure whether the kidnappers were politically motivated or not.

He is being held under a $5,000 bond. "The judge told me I could be deported for free, otherwise I would have to pay."

Private-Run Contract Facility in Laredo Whereas Port Isabel was holding an average of 2,184 detainees; the Red Cross Shelter, 925; and Webb County, an average of 350, at the time of our visit, the smaller Correctional Corporation of America (CCA) facility at Laredo was holding an average of 290 persons. Although contracted to the INS, the CCA facility operates somewhat differently from the INS facilities. Detainees wear street clothes, rather than uniforms. They are still locked up, however, and we observed several detainees in solitary confinement. Detainees at the CCA complained about the food, and the recreational facilities were as bad or worse than Webb County. The small recreation yard, which was not being used at the time of the visit, was dirty, rocky, and dusty. It featured a single basketball hoop, about 15-feet high. Two battered balls sat on the ground.

The guard later took us into a locked recreation office, and showed us a shelf of soccer and basketballs. None had a scratch or a mark. It was clear that they had never been used.

Detainees were held in locked rooms. We observed one room holding unaccompanied minors. None of the youths appeared to be doing anything other than sitting.

Arbitrariness of INS Detention Private attorneys as well as Community Relations Service (Justice Department) staff told Refugee Reports that special facilities had been set up near Brownsville to accommodate unaccompanied minors with an array of educational and recreational facilities.

The description of services for unaccompanied minors in Brownsville was quite at variance with the conditions observed at the CCA facility in Laredo. The discrepancy was all the more remarkable since there were no essential differences in the legal status of children held prisoner in the CCA, versus those held in the CRS facilities, or sheltered by the Red Cross.

Conditions of detention, and, as a consequence, access to legal counsel (which has

a documented impact on whether or not a person is deported) appears to rest less on the merits of the person's asylum claim--the extent to which they can establish a well-founded fear of persecution in their home country--and more on a host of what are, essentially, peripheral factors:

° Whether a person traveled alone or with children;
° Whether a person is older or younger than age 18;
° Whether the person has money or friends in the United States;
° What date the person entered the country, before or after the policy change on February 20;
° Where the person was apprehended;
° Whether the person has valid travel documents;
° The person's country of origin, and its relations with the U.S. government.

While the disparities in the treatment of similarly situated individuals was striking, all face difficult challenges. The overwhelming majority of aliens incarcerated by the INS and facing deportation have no legal representation whatsoever. Among those interviewed by Refugee Reports, very few showed even a basic knowledge of their rights to apply for asylum and most seemed fatalistic and passive. Barriers to communication with legal representatives were evident, and it was clear that many did not see the point in trying to overcome these obstacles, with the result that their stories were never heard by the authorities.

Recent Developments

U.S. RESUMES DEPORTATION OF NICARAGUANS

On May 15, the U.S. government resumed deportation of Nicaraguans, after a seven-month period in which none had been deported. That day, ten Nicaraguans who had been detained at the Port Isabel Service Processing Center were among a group of 24 Central Americans deported, according to Virginia Kice, the Immigration and Naturalization Service's (INS) public affairs specialist in Harlingen. They were the first Nicaraguans to be deported from the United States in FY 89.

When asked at a regularly scheduled press conference on May 3 why no Nicaraguans had yet been deported this year, INS Commissioner Alan C. Nelson confirmed that the United States would resume deportation of Nicaraguans. At the time, the INS was seeking final approval from the Justice Department to deport about 100 Nicaraguans who had been served with deportation orders and had exhausted their appeals, or who had not contested their deportation orders. It was widely expected that the first group to be deported would come from among the 491 Nicaraguans who were being detained at Port Isabel at the time of the announcement.

Resumption of Deportations Causes "Sadness and Consternation" Nicaraguan refugee leaders were dismayed by Commissioner Nelson's statement. Dr. Jose Alvarado, coordinator of the Nicaraguan Task Force in Miami, told Refugee Reports that the announcement of renewed deportations was received "with much sadness and consternation" in the Nicaraguan community. According to Alvarado, "Nicaragua is disintegrating before our very eyes--politically, economically, socially. It makes no sense to deport anyone there."

Although the United States had not deported any Nicaraguans during FY 89 prior to May 15, the government had deported 87 Nicaraguans during FY 87 and 36 during FY 88. These figures do not, however, represent the total number of Nicaraguans "removed" from the U.S. That number, including "required departures" and "exclusions," was 209 for FY 88 and 315 for FY 87, figures that also represent late reporting by INS offices of Nicaraguans removed in previous years.

All Nicaraguan Deportation Orders Reviewed by Justice Department The rate of deportation for Nicaraguans has been significantly lower than that for other Central Americans. In July 1987, then-Attorney General Edwin Meese issued a memorandum saying that Nicaraguans with a well-founded fear of persecution would not be deported (see Refugee Reports, Vol. VIII, No. 8). Although "fear of persecution" is the standard for determination of asylum for all refugees, Meese instructed that every Nicaraguan deportation order be reviewed by the Jus-

tice Department. This was done by the Asylum Policy Review Unit (APRU), established in 1987 to monitor INS asylum operations.

The APRU reviews all Nicaraguan deportation orders, whether from INS district directors or immigration judges from the Executive Office for Immigration Review. For all other nationalities, the APRU only reviews deportation orders made by INS district directors.

INS spokesman Duke Austin said, "There has been no change in policy whatsoever." He said that the Meese memo still stands and that the functions of the APRU are unchanged.

Unfamiliarity with Asylum Process Drawback for Nicaraguan Asylum Seekers Although the Nicaraguans facing imminent deportation are those detained at Port Isabel, others throughout the United States could be affected. Alvarado worries that many Nicaraguans may suffer that consequence as a result of having submitted poorly prepared asylum applications. He told Refugee Reports that while there are legitimate lawyers and refugee assistance organizations trying to help, many Nicaraguans--unfamiliar with the asylum process--have fallen prey to private "immigration agencies" that charge the refugees to complete their applications, and then use standard responses to questions rather than trying to convey the experiences of each individual refugee. When they sign their asylum applications, Alvarado told Refugee Reports, "Many of the Nicaraguans have no idea what it is they have signed."

This concern is shared by Carlos Garcia, of the Committee of the Nicaraguan Community, a Miami organization that offers legal aid. "Lack of orientation," says Garcia, "is the Nicaraguan asylum seekers' worst enemy." As with other Central Americans, Nicaraguans have little or no understanding of the complex asylum process in the United States, adds Garcia.

VIETNAMESE BOAT ARRIVALS SOAR AGAIN IN HONG KONG

Since the beginning of May, 2,000 Vietnamese boat refugees have been arriving in Hong Kong each week, the highest rate in ten years. With third-country resettlement unlikely for most and the turnout for voluntary repatriation disappointingly small, Hong Kong government officials are searching desperately for alternative solutions.

Crowded into ferry boats, army barracks, factory buildings, and detention centers dotting the island colony, boat people in Hong Kong now number 32,000, double the figure one year ago. Local officials say they expect the population to exceed 50,000 within three months.

Since June 16 of last year, the Hong Kong government has been carrying out its own screening program to determine refugee status. Those who are screened in are placed in a refugee camp, pending an interview with a resettlement country. The screened-out are placed in detention centers to await eventual repatriation.

Since the program began, 1,117 Vietnamese have been screened out and only 116 have been determined to be refugees, as of April 1. The Hong Kong program has been criticized by a number of refugee and human rights groups as being overly restrictive. The UN High Commissioner for Refugees has threatened to stop monitoring the process unless improvements are made, according to a report in Hong Kong's South China Morning Post.

Screening was intended to have two effects, Hong Kong officials have said. The first was to deter new arrivals, and the second was to encourage voluntary return to Vietnam. As it has turned out, neither result has been achieved.

Boat arrivals did decline between September 1988 and March 1989, averaging only 360 arrivals per month during that seven-month span. But the numbers jumped to 2,918 in April, according to Hong Kong government figures, and total 3,929 in the first two weeks of May.

While summer traditionally has been a time of high arrival rates, observers attribute the surge in some part to an announcement by the six-member Association of Southeast Asian Nations that, as of March 14, refugee status will no longer be automatically provided by asylum countries to Vietnamese boat people.

Despite the cut-off date, Vietnamese may see the summer months as a last opportunity for asylum and consideration for resettlement before regional screening

programs and other restrictive measures are fully implemented following the International Conference on Indochinese Refugees to be held in Geneva on June 13 and 14.

In addition to the traditional sea crossing, at least several hundred Vietnamese have taken a new overland route through China, as travel restrictions between Vietnam and China have eased.

In the meantime, only a handful of people have volunteered to return to Vietnam. A group of 75 flew home in March and another 74 returned on May 12. Fewer than 100 people still await further processing in Hong Kong.

"The signs are that voluntary repatriation isn't going to work," Michael Hanson, Hong Kong's coordinator for refugees, told The New York Times. With worldwide resettlement opportunities available for only about 4,000 Hong Kong Vietnamese in 1989, talk inevitably turns to forcible return.

"The U.S. screens people in south Texas and holds them in a detention center and repatriates them in one day," Hanson said. "They do the same to people from Haiti on a boat off the coast of Haiti. They pick them up, screen them on board the boat, deny them refugee status and then push them off. Now why are the Vietnamese different?"

Update

° On April 16, pirates armed with shotguns and hammers attacked a boatload of Vietnamese refugees off the coast of Malaysia; 130 people were shot, beaten, raped, or thrown into the sea, according to a May 7 article in The New York Times. Only one man survived what a UN official called "one of the worst incidents of piracy we have heard of."

In 1981, before any anti-piracy programs were implemented in the region, 77 percent of the Vietnamese boats arriving in Thailand were attacked, nearly 600 women and girls were raped, and nearly 900 people were dead or missing. Since that time, the attack rate has fallen to 8 percent. But refugee officials express growing alarm at the dramatic increase in the violence exhibited in these attacks.

From 1987 to 1988, the number of rapes and abductions of Vietnamese women doubled, according to figures from the UN High Commissioner for Refugees (UNHCR). Over 500 dead or missing were counted last year, a five-fold increase from 1987. U.S. embassy officials in Thailand suggest that 1989 figures could go still higher.

° On May 2, Hungary began tearing down the barbed wire fence that separates its border from Austria. Hungarian authorities said that they hoped the entire 150-mile fence would be removed by the end of 1990. "It makes Hungarians feel much better that we no longer have such an old-fashioned border with the West," said chief of the border guards, Col. Balaza Novaky, as reported in the May 3 Washington Post. On March 14, Hungary acceded to the Convention and Protocol Relating to the Status of Refugees. Hungary has granted temporary residence permits to 13,719 asylum seekers from Romania over the past year.

Although Austrian Foreign Ministry spokesman Walter Greinert was quoted in the Post story as calling the dismantling of the fence a "very positive sign," other Austrian government officials reportedly expressed fear that Romanians and other Eastern Europeans might now use Hungary as an easy transit route to the West by simply walking into Austria.

° Effective March 31, Bill Gee, director of the Office of Refugee Resettlement (ORR) for nearly three years, concluded his tenure in that position for the Reagan Administration. Phillip Holman is serving as acting director while continuing as director of policy and analysis for ORR. Mary Chi Ray, a former Vietnamese refugee active in national and local politics and refugee issues, has been named deputy director.

° Due to the drop in the number of Central Americans attempting to cross into the United States, the U.S. Border Patrol has reduced from 192 to 102 its special detail of additional officers who had been sent to the McAllen sector in south Texas. The New York Times reported on May 7 that 395 agents are permanently assigned to the McAllen sector.

° A 70-member riot squad was deployed to the Krome Avenue Detention Center in Florida on May 11 to control tensions among

Haitian detainees, according to the May 12 Miami Herald. Krome is still overcrowded; the 525-bed facility now holds 740 detainees, including 550 Haitians (see Refugee Reports, Vol. X, No. 4). The Herald reported that they were being confined for security reasons to eight separate areas of Krome in a "lockdown" order. All 22 telephones for the detainees were shut down.

On May 6, the Herald reported that 16 Haitian women had been transferred from Krome to the INS detention facility in Oakdale, Louisiana, due to the overcrowding. Krome was holding 152 women, but only had the capacity for 100. INS District Director Perry Rivkind was quoted as saying that the last seven months has seen "the heaviest movement of Haitians to the U.S. since I've been district director for the past six years." Rivkind reportedly attributed the increase to political upheavals in Haiti and to the magnet attraction of the Haitian community in Miami.

° Indochinese refugee admissions are likely to be heavy again in the last quarter of the fiscal year, according to an analysis provided by the International Rescue Committee (IRC). Given a Southeast Asian admissions ceiling of 46,500 in FY 89 (which includes first asylum admissions, Orderly Departure Program refugees, and Amerasian immigrants), a total of 17,880 Indochinese had entered the United States by the end of March, midway through the fiscal year (see chart on page 16).

The State Department has authorized admissions of an additional 12,985 Indochinese in the third quarter of FY 89. In order to meet the regional ceiling, 14,920 people would need to enter the country in the final quarter of the fiscal year. Examining the graduation schedules of the overseas language and orientation programs, IRC estimated that 9,300 Indochinese could enter the United States in September.

Projects and Programs

ON BOTH SIDES OF THE BORDER, RELIGIOUS GROUPS OFFER TEMPORARY HAVEN TO CENTRAL AMERICANS

Central Americans who make their way through Mexico to the U.S. border have found temporary shelter, in both Brownsville, Texas, and Matamoros, Mexico, through local Catholic groups. Casa Oscar Romero and Casa Juan Diego are unconnected and on opposite sides of the border, but both have offered temporary haven to Central Americans.

Casa Oscar Romero Established eight years ago in a two-bedroom house by nuns from the Missionaries of Jesus convent in Brownsville, Texas, Casa Oscar Romero--a shelter for Central Americans--now occupies a spacious, attractive compound just outside the Brownsville city limits.

It has not been an easy road for the shelter. In its early days, Casa Romero accommodated only four or five Central Americans at a time, usually women and children brought to the shelter by the border patrol. An increase in the number of people needing shelter and problems with the city authorities led the sisters to look for a new site outside the Brownsville city limits. Casa Romero's new neighbors tried to prevent the shelter from moving into its present facilities and, even after the shelter succeeded in moving in, built a two-story high watchtower to keep an eye on the sisters' activities.

The center's director, Sister Juliana, is well-known throughout the community for her dedication--and feisty spirit. Even the Border Patrol, who keep a watchful eye on the shelter, seem to avoid unnecessary tangles with Sister Juliana. Although they occasionally arrest people outside the shelter's gates--and on one occasion arrested a group of shelter residents traveling to the INS office in a van with Sister Juliana--the Border Patrol have never forcibly entered the shelter.

According to Sister Norma, also on the center's staff, almost all of the Nicaraguans--and some Central Americans of other nationalities--who stay at the shelter apply for asylum. Shelter staff ensure that they get help filling out their applications. Those who don't apply, usually only stay at the shelter a few days and then move on to other destinations.

The shelter depends on donations for many of its needs, and the response of church groups and individuals has been generous. The residents themselves are responsible for cooking and cleaning, which

is done on a rotating basis. Casa Romero has a relaxed atmosphere. On the the day of a Refugee Reports visit, some residents were making handicrafts, while others were playing pool, singing, or watching television, and the good rapport between the residents and the sisters was evident. Casa Romero, though just a temporary stop for all its residents, was clearly a home to them.

Casa Juan Diego The city of Matamoros, only a bridge away from Brownsville, is the last stop in Mexico for many Central Americans heading to the United States. Unlike Brownsville, a quiet border town, Matamoros is a bustling urban center. But for Central Americans arriving here with no place to stay, it can also be an expensive--and dangerous--place to be.

Casa Juan Diego, a shelter run by Our Lady of Lourdes parish, provides a safe haven for those awaiting the right moment "to cross." Because the shelter can only offer a limited number of beds, residents are only supposed to stay for three days. At the time of a Refugee Reports visit, however, the shelter was not full, and some of the residents had been there for more than a week. They were aware of increased border patrols on the U.S. side of the border, and were concerned about their chances of making it across.

According to Reverend Oscar Lozano, the parish priest who runs Casa Juan Diego, the average number of residents at the shelter has declined each month since stricter policies went into effect on the U.S. side of the border. In January, the shelter had more than 500 residents. During the first week in April, there were only ten. Rev. Lozano thinks that the U.S. policy will only diminish, not bring to a halt, the flow of Central Americans seeking to enter the U.S.

Although Casa Juan Diego does not ask residents why they are going to the United States, Rev. Lozano has talked informally

At Casa Oscar Romero near Brownsville, Central Americans staying at the shelter relax in the company of Sister Norma, one of the Catholic nuns who helps run the shelter.
Photo credit: USCR/Hiram A. Ruiz

with a number of them. "Frankly," he says, "my impression is that many of them are looking for jobs and a better life--although there is no shortage of those who feared for themselves and their families."

Local people in Matamoros have also been very supportive of Casa Juan Diego. The shelter has over 700 volunteers, some of whom prepare meals in their homes and bring them to the shelter. Rev. Lozano says that although many of the Central Americans have faced problems as they crossed Mexico, particularly from police and those who pretend to be police, many Mexicans who sympathize with the Central Americans have also done what they could to help them.

Current Research

MENTAL HEALTH CRISIS IN SITE 2

There is a "widespread and deep-rooted mental health crisis" among the 180,000 residents of Site 2 camp on the Thai-Cambodian border, and essentially no organized system for treating persons with serious psychiatric disorders, according to a study published in February by representatives of the World Federation for Mental Health (WFMH).

Suicide attempts have more than doubled in the past two years. Over 90 percent of the attempts are by women between the ages of 15 and 30. Children increasingly are becoming victims of sexual violence. Beatings and domestic abuse are commonplace.

The factors that contribute to mental illness in the camp include:

1) Trauma. Most Cambodians in Site 2 have already suffered deprivation, physical injury and torture, and incarceration during the four-year rule of the Khmer Rouge from 1975 to 1979. "The extensive violence in Site 2 constitutes a 'second wound'--a re-traumatization of individuals who have already suffered from severe victimization."
2) Lack of physical safety and protection. Periodic shelling and attacks on the camp, domestic violence, and the lack of effective law enforcement and security inside the camp "markedly increase levels of anxiety and depression." The study cites a medical report from the American Refugee Committee that "violence has become the major public health problem in Site 2."
3) Overcrowding.
4) Poverty.
5) Malnutrition. Recent surveys by the UN Border Relief Operation show that the acute malnutrition rate for children under 5 is about 5 percent, but chronic malnutrition, which is "a significant factor contributing to the development of chronic psychiatric disability," is as high as 50 percent.
6) Demoralization. This is caused by "complete and confining dependency for the basics of life; political conditions that block both resettlement and repatriation; the censorship of mail; the monotony of food (nothing but rice and canned fish for years on end); [and] the barrier to being reunited even briefly with relatives in other border camps only a few miles distant."

While the primary health care system in the camp performs "exceptionally well," the WFMH team found, "a comparable system does not exist for psychiatric intervention."

The report made three major recommendations for alleviating the crisis:

1) There first should be "fundamental changes in the camp's social, physical and economic structure." Improvements need to be made in the areas of nutrition, public health, special education, security and law enforcement, and political and economic planning.
2) A new comprehensive mental health system should be established in Site 2 patterned after the one that existed in Cambodia prior to 1975. "In that system, one central psychiatric hospital in Phnom Penh served the entire country. Mentally ill patients in rural areas were treated first by [Buddhist] monks or Krou Khmer [traditional healers]."
3) A three-year technical assistance program should be funded that would utilize Khmer mental health professionals to recruit and train Khmer mental health workers in camp. Technical assistance should also be provided to Buddhist monks, Krou Khmer, the Khmer Women's Association, and an innovative project called the Khmer People Depression Relief Unit, which provides both traditional healing and Western counseling.

Community of Confinement: The Mental Health Crisis in Site Two was written by Richard F. Mollica, M.D. and Russell R. Jalbert and is available for $15.00 from the Indochinese Psychiatry Clinic, 77 Warren Street, Boston, MA 02135. (617) 782-6711.

Resources

NEW REPORT ON KHMER ROUGE ABUSES ALONG THAI-CAMBODIAN BORDER

A report issued in February by Asia Watch accuses the Khmer Rouge of moving 15,000 Cambodian refugees from camps under Khmer Rouge control inside Thailand to combat zones close to or inside Cambodia between June and November 1988. Vietnamese troops in Cambodia responded to these moves with intensive shelling--killing and wounding scores of people and scattering the rest.

"The attempted forced repatriation," the report said, "was a violation of international human rights standards and laws regulating armed conflict" in that it drove civilians into a war zone. Those injured by the shelling, moreover, were denied access to medical care.

Between June and September 1988, the Khmer Rouge moved 7,000 to 8,000 people from Ta Luan camp; then in early October, another 5,000 to 9,000 refugees were removed from O'Trao. Both groups were moved to so-called "repatriation villages" straddling the border or inside Cambodia.

"The 1988 displacements were by no means the first," the Asia Watch report said. In August 1985, the Khmer Rouge trucked 5,000 civilians to Phnom Dey, a military camp closed to foreigners. In January 1987, more than 1,600 residents of the Khmer Rouge "showcase" camp, Site 8, were moved to Natrao, 150 miles away. "Most of those moved were women who acted as ammunition porters during a period of escalating clashes between the Khmer Rouge and Vietnamese forces."

"The population removals of late 1988," said the report, "together with the documented pattern of systematic human rights abuses in Khmer Rouge-controlled camps and the determination to keep refugees away from the 'contaminating' influence of Western and international aid agencies, are chillingly reminiscent of the barbarous practices that characterized Khmer Rouge rule in Cambodia from 1975-1979."

In order to protect Cambodian refugees in Thailand from further abuse, Asia Watch recommends that the camps should be made fully accessible to international humanitarian agencies; refugees should be allowed the freedom of choice to transfer from a Khmer Rouge camp; and planning should start immediately for voluntary repatriation to Cambodia. "If a system allowing freedom of choice is not established soon," the report stated, "there are likely to be further attempts by the Khmer Rouge to move refugees forcibly to areas vacated by the departing Vietnamese troops."

The report also called for an end to military aid to the Khmer Rouge, prosecution of the Khmer Rouge leaders most responsible for the Cambodian genocide, and removal of the estimated half million mines planted along the border.

Khmer Rouge Abuses Along the Thai-Cambodian Border, based largely on interviews with refugees and aid officials conducted along the border in November 1988, was written by Mary Kay Magistad. It is available for $5.00 from Asia Watch at 1522 K Street, NW, Suite 910, Washington, DC 20005 (202) 371-6592; and 36 West 44th, Suite 911, New York, NY 10036 (212) 840-9460.

Reader Exchange

On June 27 at 10:00 p.m. (EST) the documentary film, Situation Zero, will be fed into the Public Broadcasting System's (PBS) national network. Independent PBS stations across the country have the choice of either broadcasting the film at that time, recording it for later transmission, or disregarding the feed.

Situation Zero, made by independent filmmaker Stanley Harper, portrays the life of a simple Cambodian family trapped in Site 2 camp on the Thai-Cambodian border and their struggle to maintain hope and dignity in the face of an ongoing guerrilla war and the grinding monotony of camp life.

Readers should contact their local PBS stations for local air times.

SUMMARY OF REFUGEE ADMISSIONS, FIRST HALF OF FY 89

COUNTRY OF CHARGEABILITY	FY ADMISSIONS AS OF 3/31/89	FY 89 CEILING
AFRICA		
Angola	15	
Burundi	3	
Ethiopia	534	
Lesotho	2	
Malawi	1	
Mozambique	3	
South Africa	10	
Uganda	28	
Zaire	2	
TOTAL AFRICA	598	2,000
EAST ASIA--1ST ASYLUM		27,000
Cambodia	1,576	
Laos		
Highland	3,025	
Lowland	2,762	
Subtotal Laos	5,787	
Vietnam	5,839	
Subtotal 1st Asylum	13,202	
ODP		19,500
Amerasian Immigrant	1,280	
Refugee	3,398	
Subtotal ODP	4,678	
TOTAL EAST ASIA	17,880	46,500
EASTERN EUROPE/USSR		
Albania	29	
Bulgaria	41	
Czechoslovakia	530	
Hungary	470	
Poland	1,724	
Romania	1,450	
Soviet Union		
Direct	1,926	
Non-Direct	11,544	
Subtotal Sov. Union	13,470	
Yugoslavia	1	
TOTAL EASTERN EUROPE/USSR	17,715	31,500
LATIN AMERICA		
Cuba	519	
Nicaragua	100	
TOTAL LATIN AMERICA	619	3,500
NEAR EAST/SOUTH ASIA		
Afghanistan	873	
Iran	2,716	
Iraq	34	
Lebanon	1	
Libya	1	
TOTAL NEAR EAST/SOUTH ASIA	3,625	6,500
GRAND TOTAL	40,437	90,000

Source: U.S. Department of State, Bureau for Refugee Programs

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